

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY**

In the Matter of)
)
Amendment of Part 25 of the Commission's)
Rules to Establish Rules and Policies)
Pertaining to the Second Processing Round)
of the Non-Voice, Non-Geostationary)
Mobile Satellite Service)

IB Docket No. 96-220

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OPPOSITION

Leo One USA Corporation ("Leo One USA"), by its attorneys, hereby opposes the Joint Request for Extension of Time ("Request") filed by some of the pending applicants and licensees in the Non-Voice, Non-Geostationary Mobile Satellite Service ("NVNG MSS"). The Request seeks to delay the schedule for filing of comments, reply comments and amended applications as specified in the Notice of Proposed Rule Making in this proceeding.¹

Leo One USA opposes the Request for a number of reasons. First, the rule making will need to proceed regardless of whether the parties come to any understanding. There are a number of issues that the Commission has indicated will need to be resolved by this rule making. For instance, the technical sharing proposals can only be implemented after new rules are adopted. Also, the Commission has determined that the rights of existing licensees to participate in the second round must be resolved by rule making. It is difficult to believe that the existing licensees would now agree to forego their modification requests after spending the last two years so vigorously pursuing such requests. Certainly, all the licensees and applicants are free to support each other's positions in this proceeding, and the Commission would most likely welcome comments on joint positions

¹ *Amendment of Part 25 of the Commission's Rules to Establish Rules and Policies Pertaining to the Second Processing Round of the Non-Voice, Non-Geostationary Mobile Satellite Service, IB Docket No. 96-220, Notice of Proposed Rule Making (Oct. 29, 1996) ("Notice").*

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even after the pleading cycle ends. However, a record must be established supporting the proposed rules.

Second, nothing presented to date in the formal record of these proceedings or in the informal discussions between the applicants leads Leo One USA to believe any new proposals which have not been fully vetted will be forthcoming from such a delay. None of the second round applicants, including Leo One USA, has been able to put forth any proposals which would make settlement likely. The adoption of the Notice has not changed this situation. All the applicants, including Leo One USA, recently revived discussions on various proposals including proposals relating to the "virtual constellation" approach advocated by Final Analysis Communications Services, Inc. As Leo One USA has stated on numerous occasions, it does not believe this approach is viable from either a technical or business standpoint. Although Leo One USA supports efforts to reach a mutually beneficial settlement, it is possible that there is no mutually agreeable position given the honest differences of opinion between the applicants on what is practical from a business perspective in terms of a competitive system and what will best serve the public interest. Consequently, Leo One USA, on November 18, 1996, informed the other second round applicants by letter that it did not want to waste their time by participating in discussions in which Leo One USA views as unproductive. Leo One USA is unaware of any new proposals or additional settlement discussions which have taken place during the last week. Given this situation, grant of the Request will merely result in a six-week delay in this proceeding and will do nothing to improve the structure around which a settlement might be accomplished. This would be at odds with the Commission's policy goal articulated in the Notice "to increase competition and bring new services to market as quickly as possible."

Third, Leo One USA does not believe the grant of an extension of time is a prerequisite to obtaining a settlement. Conforming to the deadlines set-out in the Notice does not preclude any potential discussions among the second round applicants.² Moreover, contrary to the assertions stated in the Request, Leo One USA believes that the prompt submission of comments and amendments will help foster, rather than hinder, an environment that will promote resolution of this proceeding. Furthermore, the positions taken in comments on many proposals in the Notice may

² There is no reason that the parties could not hold settlement discussions before or after the required filings, even up to the time the Commission would hold an auction.

help develop common ground for settlement. Additionally, as discussed above, Leo One USA questions how settlement discussions can proceed before the Commission finalizes the relative rights of the first and second round companies.

Fourth, delay in filing the amendments could be detrimental to the interests of the United States at the ITU. Presently, a number of administrations have Appendix 4 filings pending at the ITU for systems to operate in the NVNG MSS frequency bands. Leo One USA has been informed that the Commission would like to submit Appendix 3 filings for Little Leo Systems 1, 2, and 3 as proposed by in the Notice, as soon as possible after December 16, 1996. Any delay in submission of amended applications is likely to delay the submission of Appendix 3 material for the newly proposed systems. This would merely provide other administrations the opportunity to review the FCC's Notice and submit their own Appendix 3 filings, putting the United States at a disadvantage in the international coordination process.

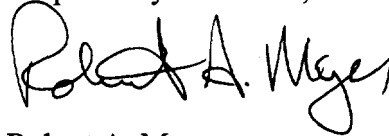
Fifth, the proposed six weeks delay would result in a commensurate delay as to when regulatory clarity would appear in this proceeding. This could have an adverse impact on the U.S. position at the ITU Conference Preparatory Meeting ("CPM") which is scheduled to be held in Geneva in early May 1997. Based on the Petitioners' proposed filing schedule, the earliest the proceeding would be ripe for decision would be April 1997.³ Without clarity on the frequency immediately required, the number of eligible applicants and the viability of the proposed sharing techniques, the United States will be in a more difficult position in promoting its interests at the CPM.

In sum, Leo One USA supports the Commission's efforts to advance the second NVNG MSS processing round and expedite the introduction of new, competitive NVNG MSS systems. It has taken the Notice very seriously and has devoted substantial technical, economic and legal resources during the last three weeks in preparation for filing comments next week. Petitioners have failed to advance an adequate justification to support their last minute request for an extension of time. Further delay will simply hinder the introduction of competition for NVNG MSS services and harm the public interest. Leo One USA therefore urges the Commission to reject any efforts to delay

³ A date of January 27, 1997 for filing amendments would result in a late March or early April date for conclusion of the pleading cycle on the amended applications.

resolution of this rule making or the second NVNG MSS processing round and maintain the deadlines announced in the Notice.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert A. Mazer". The signature is fluid and cursive, with the first name "Robert" and last name "Mazer" clearly distinguishable.

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Dated: November 22, 1996

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Opposition of Leo One USA Corporation was sent by first-class mail, postage prepaid, this 22nd day of November 1996, to each of the following:

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A handwritten signature in black ink, reading "Robert A. Mayer", is written over a horizontal line. The signature is cursive and fluid, with the first name "Robert" and last name "Mayer" clearly legible.